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Response

PATENT
Atty. Docket No.: EXT-026
(2457/23)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS: Lapidus et al.
SERIAL NUMBER: 09/545,162 GROUP NUMBER: 1634
FILING DATE: April 7, 2000 EXAMINER: Juliet C.
Einsmann
TITLE: METHODS FOR DETECTING NUCLEIC ACIDS
INDICATIVE OF CANCER

Commissioner for Patents
Washington, D.C. 20231

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SUPPLEMENTAL RESPONSE

In response to an Office communication mailed from the U. S. Patent and Trademark Office on June 4, 2002, in the above-identified patent application, Applicants submit this Supplemental Response along with a Terminal Disclaimer and an appropriate fee under 37 C.F.R. § 1.20(d). Applicants also submit a petition and an appropriate fee for a one month extension of time up to and including August 5, 2002 (August 4, 2002, fell on a Sunday).

Rejection of Claims 7-9 under Obviousness-type Double Patenting

The Office communication indicated that the request to hold the obviousness-type double patenting rejection of claims 7-9 in abeyance was not responsive to the Office Action mailed on November 19, 2001. In the Office Action, claims 7-9 were rejected under the judicially created doctrine of obviousness-type double patenting in view of claims 1-33 of U.S. Patent No. 6,143,529.

In order to promote prosecution, but without acquiescing to the merits of the rejection, Applicants enclose an executed Terminal Disclaimer and an appropriate fee under 37 C.F.R. § 1.20(d). Therefore, Applicants respectfully request that this rejection be reconsidered and withdrawn.



CONCLUSION

Applicants believe that the present submission is fully responsive to the Office communication of June 4, 2002 and the Office Action of November 19, 2001. Accordingly, Applicants submit that claims 7-14 are in condition for allowance and respectfully request early favorable action by the Examiner. If the Examiner believes that a telephone conversation would expedite prosecution of this application, the Examiner is cordially invited to call the undersigned attorney of record. Applicants believe that no additional fees are due with this Supplemental Response. However, Applicants hereby authorize the Director to charge any deficiency in the required fees to Deposit Account No. 20-0531.

Respectfully submitted,

Dated: August 5, 2002

A handwritten signature in cursive script that reads "Pat R.H. Waller".

Patrick R.H. Waller, Ph.D.
Registration No. 41,418
Attorney for Applicants
TESTA, HURWITZ, & THIBEAULT, LLP
High Street Tower
125 High Street
Boston, MA 02110

Tel.: (617) 248-7240
Fax.: (617) 248-7100

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